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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171281
Party	Defendant Jarrow Formulas, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PomWonderful LLC)	
	)	Opposition (Parent) No.: 91171281
Opposer,)	
	)	Marks and Consolidated Proceedings:
v.	)	Opp. No. 91171281 (Parent) re POMAMAZING
	)	Opp. No. 91191283 re POME GREAT
Jarrow Formulas, Inc.,	)	Opp. No. 91171284 re POMESYNERGY
	)	Opp. No. 91173117 re POMOPTIMIZER
	)	Opp. No. 91173118 re POMGUARD
Applicant.	)	Opp. No. 91186414 re POMEZOTIC
	)	Opp. No. 91191995 re PRICKLYPOM
	)	Opp. No. 91194226 re POM and POM
)	

APPLICANT JARROW FORMULAS, INC.'S
MOTION FOR JUDGMENT UNDER 37 C.F.R. § 2.132(a)
AND INCORPORATED MEMORANDUM OF LAW

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 2.132(a), Applicant Jarrow Formulas, Inc. (“Jarrow” or “JFI”) moves for judgment in these consolidated opposition proceedings. During these nearly ten-year old proceedings, Jarrow has invested substantial resources in negotiating multiple settlement agreements with Opposer PomWonderful, LLC (“PWI”). On several occasions, Jarrow believed that the parties had reached agreement and that the matter had been resolved, only to have PWI pull back, change its position on issues that had been extensively negotiated, and raise new issues and demands. These tactics have delayed resolution, drained Jarrow’s resources, and rendered it increasingly costly and difficult for Jarrow to defend its rights in its marks. During this period, Jarrow has continued to extensively use and invest in its POME GREAT mark, but has not been able to register its mark and protect that investment. PWI, on the other hand, has failed to take any testimony or offer any other evidence in support of its claim of purported confusion. Further, PWI’s testimony period closed on March 26, 2015, more than seven months prior to this motion. Allowing PWI to re-open its trial period after such significant delay would unduly delay these proceedings and further waste the Board’s and Jarrow’s resources. Further, Jarrow would be prejudiced by the additional time and expense associated with litigating this matter so long after PWI’s trial period has closed. PWI’s conduct does not rise to the level of excusable neglect, and PWI should not be permitted after such delay to re-open its testimony period and further delay resolution of these nearly ten-year-old proceedings.

II. STATEMENT OF FACTS

A. Background: June 2006-November 2014

The earliest of these consolidated proceedings commenced on June 7, 2006, with PWI’s filing of Notices of Opposition against Jarrow’s applications to register the marks POMAMAZING (stylized), POME GREAT and POMESYNERGY. PWI subsequently opposed

Jarrow's applications to register POMOPTIMIZER and POMGUARD on September 27, 2006; POMOPTIMIZER on September 15, 2008; and PRICKLYPOM on September 21, 2009 (all of the foregoing oppositions, collectively, the "PWI Oppositions").¹ Since at least as early as June 12, 2007, the parties have been discussing settlement. (Ex. 1).²

The parties first reduced their proposed settlement to a draft agreement in May 2011. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 2). However, this arrangement broke down in July/August of 2012, when PWI indicated that [REDACTED]

[REDACTED]. (Ex. 3).³

To accommodate PWI's changed position, the parties began negotiating a different agreement that [REDACTED]

[REDACTED]. Jarrow sent the first such agreement to PWI on

¹ Jarrow is in the position of opposer in Opposition No. 91194226, which is not the subject of this motion.

² Citations to "Ex. __" refer to the Exhibits to the Declaration of Barbara Banjac, attached hereto.

³ Evidence of "(1) furnishing, promising, or offering – or accepting, promising to accept, or offering to accept – a valuable consideration in compromising or attempting to compromise the claim; and (2) conduct or a statement made during compromise negotiations about the claim" are inadmissible "either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction." *See* Fed. R. Evid. 408(a). "The rule specifically permits such evidence, however, for *any other purpose*." *In re MSTG Inc.*, 102 U.S.P.Q.2d 1321, 1326 (Fed. Cir. 2012) (emphasis added). The exhibits to this motion primarily comprise a draft settlement agreement and settlement-related correspondence with PWI, which Jarrow offers for the purposes of establishing the timeline of negotiations and the facts underlying PWI's delay, PWI's lack of good faith, and the prejudice to Jarrow. These purposes are unrelated to proving or disproving the likelihood of confusion and dilution claims asserted by PWI in the PWI Oppositions or impeachment.

November 27, 2012. (Ex. 4). Within a month, PWI indicated that [REDACTED] [REDACTED] (Ex. 5), and by April 10, 2013, the parties reported to the Board that “they are so close to resolving this matter completely” and “have come to the point of negotiating, literally, the final wording of just 4 sentences.” (D.E. # 73 at 1). On April 18, 2013, Jarrow sent a signed agreement to PWI, whose counsel [REDACTED] [REDACTED] (D.E. # 79 at 3). Instead, as the parties reported to the Board on July 29, 2013 and December 23, 2013, [REDACTED] [REDACTED] [REDACTED] (D.E. # 79 at 5; D.E. # 83 at 2). To preserve its rights in the interim, Jarrow served its Pretrial Disclosures on September 26, 2013 (Ex. 6), and filed and served its Notice of Reliance on November 12, 2013 (D.E. # 81) in accordance with the then-applicable trial schedule.

To once again accommodate PWI’s changed position, Jarrow on May 7, 2014 sent PWI a new draft agreement, under which [REDACTED]

[REDACTED] (Ex. 7). [REDACTED]

B. PWI’s Inaction Since December 2014 and Continued Failure to Take Testimony or Introduce Evidence

On December 19, 2014, the parties filed yet another status report and motion to extend deadlines in this matter. (D.E. # 88). The Board granted the parties’ motion, setting the close of PWI’s trial period at March 26, 2015. (See D.E. ## 89 & 90). On January 7, 2015, counsel for Jarrow asked PWI for an update on settlement, noting that “[w]e are going to start running up

against deadlines next month.” (Ex. 8). On February 25, 2015, on or about the opening of PWI’s trial period, PWI’s counsel sent Jarrow a revised draft settlement agreement. (Ex. 9). PWI’s counsel said nothing in the email about the trial schedule. (*Id.*). Shortly thereafter, on March 3, 2015, Jarrow sent a revised draft of the settlement agreement back to PWI indicating that PWI’s proposed revisions would likely be acceptable with the minor clarifications shown in the agreement. (Ex. 10). On March 23, 2015, three days before the close of its trial period, PWI’s counsel sent Jarrow a further revised draft settlement agreement in response to that received from Jarrow on March 3, 2015. (*Id.*). PWI’s counsel said nothing in the email about the trial schedule. (*Id.*). Counsel for PWI then sent emails to Jarrow on April 21, 2015 and May 6, 2015 inquiring about settlement—again with no mention of the trial schedule. (Ex. 11). On May 27, 2015, counsel for Jarrow sent PWI a revised agreement containing a few ministerial revisions, and indicated that Jarrow was prepared to sign. (Ex. 12). PWI’s counsel responded on May 29, 2015 indicating that [REDACTED] (*Id.*). On June 22, in response to a follow-up email from Jarrow’s counsel, PWI’s counsel indicated that [REDACTED] [REDACTED] (Ex. 13).

The next communication between the parties took place on October 1, 2015, when Jarrow’s counsel pressed PWI’s counsel for the status of the settlement agreement. Despite indicating five months earlier that [REDACTED] PWI’s counsel indicated that its client would be raising, yet again, new issues with the agreement. (Ex. 14). Jarrow’s counsel sent follow-up emails on October 6th and 16th requesting further information from PWI. (*Id.*). On October 21, 2015, PWI’s counsel indicated that the agreement [REDACTED] [REDACTED] (*Id.*). PWI’s counsel further stated she was [REDACTED] [REDACTED] but [REDACTED]

██████████ (Id.). On November 10, 2015, in its first substantive response regarding the draft settlement agreement that Jarrow circulated in May, PWI provided a further revised draft settlement agreement that once again introduced significant substantive changes to what had previously been negotiated. (Ex. 15). And once again, PWI's correspondence was silent with respect to the trial schedule. (Id.).

As of the filing of this motion, PWI has neither taken testimony nor introduced any evidence in this matter, nor has PWI taken any action with respect to its trial period, which closed over seven months earlier.

III. ARGUMENT

A. Standard of Review

Trademark Rule 2.132(a) provides that a defendant may move for judgment where the plaintiff has failed take testimony or otherwise introduce evidence prior to the close of the plaintiff's trial period. 37 C.F.R. § 2.132(a); TBMP § 534.02. Upon filing of such a motion, the plaintiff shall be required to show good and sufficient cause why judgment should not be entered. TBMP § 534.02. "The 'good and sufficient cause' standard, in the context of Trademark Rule 2.132(a), is equivalent to the 'excusable neglect' standard which [the party in the position of plaintiff] would be required to meet under Fed. R. Civ. P. 6(b) to reopen its testimony period." *PolyJohn Enterprises Corp. v. 1-800-Toilet Inc.*, 61 U.S.P.Q.2d 1860-61 (TTAB 2002).

Whether PWI's neglect is excusable is an equitable determination that requires "taking account of all relevant circumstances surrounding the party's omission," including "the danger of prejudice to [Jarrow], the length of the delay and its potential impact on judicial proceedings, the

reason for the delay, including whether it was within the reasonable control of [PWI], and whether [PWI] acted in good faith” (hereafter, the “*Pioneer* factors”). *Pumpkin Ltd. v. The Seed Corps*, 43 U.S.P.Q.2d 1582, 1586 (TTAB 1997) (quoting and adopting analysis in *Pioneer Investment Services Company v. Brunswick Associates Limited Partnership*, 507 U.S. 380, 395 (1993) (bracketed text supplied)); accord *Atlanta-Fulton County Zoo Inc. v. DePalma*, 45 U.S.P.Q.2d 1858, 1859 (TTAB 1998).

Although defendants moving under Trademark Rule 2.132(a) are encouraged to do so prior to the opening of their own trial period, the Board has discretion to hear a motion if filed thereafter. *Hewlett-Packard Co. v. Olympus Corp.*, 18 U.S.P.Q.2d 1710, 1713 (Fed. Cir. 1991) (exercising discretion); *Atlanta-Fulton County Zoo Inc.*, 45 U.S.P.Q.2d at 1860 (same).

B. PWI Cannot Demonstrate Excusable Neglect under the *Pioneer* Factors for Its Failure to Timely Take Testimony or Introduce Evidence

In this case, the facts demonstrate that (1) PWI can point to no legitimate reason for its failure to take testimony or otherwise introduce evidence prior to the close of its trial period, even though it was wholly within PWI’s control to do so; (2) allowing PWI to re-open its trial period more than seven months after it closed would unduly delay these proceedings—the first of which commenced in June 2006—and further waste the Board’s and Jarrow’s resources; (3) PWI has not acted in good faith; and (4) Jarrow would be prejudiced by the additional time and expense associated with litigating this matter so long after PWI’s trial period has closed. For these reasons, the Board should grant judgment to Jarrow in the PWI Oppositions.

1. There Is No Reason for PWI’s Failure To Take Testimony or To Introduce Evidence During Its Trial Period, and It Was Completely Within PWI’s Control To Do So

Beginning with the third *Pioneer* factor, the Board has previously observed that “the reason for the delay and whether it was within the reasonable control of the [nonmovant] might

be considered the most important factor in a particular case.” *Atlanta-Fulton County Zoo*, 45 U.S.P.Q.2d at 1859 (citing *Pumpkin*, 43 U.S.P.Q.2d at 1586 n.7). Here, while PWI will likely advance several theories to justify its delay, there is no legitimate reason for excusing PWI’s failure to introduce testimony or otherwise preserve its rights by obtaining an extension of time. Accordingly, this factor favors entry of judgment for Jarrow.

First, even though the parties have spent years negotiating settlement, “[i]t is well established that the mere existence of settlement negotiations does not justify a party’s inaction or delay.” *Atlanta-Fulton County Zoo Inc.*, 45 U.S.P.Q.2d at 1859. Such an explanation from PWI would ring particularly hollow in this case: Jarrow provided a revised draft settlement agreement—and indicated it was prepared to sign that agreement—in May 2015, only to have PWI respond nearly five and a half months later by introducing additional substantive changes to provisions that had already been extensively negotiated. (Ex. 12-15). Accordingly, PWI cannot excuse its inattention to deadlines on the basis of the ongoing settlement negotiations.

Second, by PWI’s own admission, [REDACTED] which also fails to constitute excusable neglect. On October 21, 2015, counsel for PWI explained to Jarrow’s counsel PWI’s silence over the preceding five months: [REDACTED]

[REDACTED] (Ex. 14). However, the Board has made clear that the press of other business does not constitute excusable neglect. *See Consolidated Foods Corp. v. Berkshire Handkerchief Co.*, 229 U.S.P.Q. 619, 620 (TTAB 1986) (that counsel was “‘heavily involved in other litigation matters’ --, is manifestly insufficient to constitute excusable neglect”); *Williams v. The Five Platters, Inc.*, 184 U.S.P.Q. 744, 745 (C.C.P.A. 1975) (counsel’s failure to respond to motion for summary judgment due to “pressure

of other work in the attorney's office" constitutes "carelessness and inattention," not excusable neglect).

Third, while PWI will likely attempt to justify its failure to attend to its deadlines on its expectation that Jarrow would agree to a re-opening of PWI's testimony period, this is not true. While the parties have cooperated in the past on extending deadlines, Jarrow was not under any continuing obligation to do so, much less without PWI ever broaching the subject. Nor did Jarrow believe PWI to have any such corresponding obligation. For this very reason, Jarrow acted diligently to preserve its rights as the opposer in Opposition No. 91194226 by filing and serving a Notice of Reliance on November 12, 2013. It was PWI's responsibility—and PWI's alone—to exercise the same diligence with respect to its deadlines. *Hewlett-Packard*, 18 U.S.P.Q.2d at 1712 ("As opposer, it was incumbent on Hewlett, if it wished to postpone the deadline for taking testimony, to timely seek an enlargement of its testimony period.").

The facts demonstrate not diligence, but PWI's apparent lack of concern with the trial schedule in this matter. Since the last extension request filed by the parties in December 2014, not only did PWI not take testimony or introduce evidence during its allotted testimony period, but not once did PWI even raise the issue of the trial schedule. This is the case, notwithstanding (1) Jarrow's counsel's email of January 7, 2015, which in addition to requesting feedback on settlement, noted that "[w]e are going to start running up against deadlines next month"; and (2) PWI's counsel's emails of February 25, 2015 and March 23, 2015 (which roughly corresponded to the open and close of PWI's testimony period), which made no mention of the trial schedule. (Ex. 8-10). If PWI mistakenly believed that Jarrow would consent to an extension of deadlines, that is not a consequence of any representations made by Jarrow, and does not excuse PWI's neglect. *Giersch v. Scripps Networks Inc.*, 85 U.S.P.Q.2d 1306, 1308 (TTAB 2007) ("Counsel

for respondent's mistaken belief that counsel for petitioners would simply agree to another extension request does not absolve respondent from its duty to adhere to the appropriate deadlines in this case."); *Atlanta-Fulton County Zoo*, 45 U.S.P.Q.2d at 1860 ("opposer's inattention to the set schedule governing this proceeding, albeit inadvertent, ... has had an adverse impact on the orderly administration of this case.... [S]uch neglect can be neither overlooked or excused.").

In sum, PWI cannot excuse its failure to take testimony or introduce evidence based on the parties' settlement negotiations, the press of other business, or PWI's inattention to the trial schedule and mistaken belief that Jarrow might agree to re-open PWI's trial period once closed—all of which are legally insufficient to constitute excusable neglect. PWI can advance no theory to justify its failure to act during its trial period when it was wholly within PWI's control to do so. Accordingly, the third *Pioneer* factor weighs strongly in favor of granting judgment for Jarrow.

2. **PWI's Delay Has Been Substantial and Re-Opening Trial Periods Would Unduly Delay Resolution of These Nearly Ten-Year Old Proceedings and Further Waste the Board's and Jarrow's Time and Resources**

The second *Pioneer* factor, which takes into account the length of PWI's delay and the potential impact on proceedings, also strongly favors Jarrow. Together with the third *Pioneer* factor, discussed in the preceding Section, these two factors alone are sufficient for finding a lack of excusable neglect. See *Atlanta-Fulton County Zoo*, 45 U.S.P.Q.2d at 1859 (granting judgment based solely on second and third *Pioneer* factors); *Pumpkin Ltd.*, 43 U.S.P.Q.2d at 1588 (TTAB 1997) (same).

In this case, PWI's delay is substantial and, since PWI has taken no remedial action, ongoing. More than seven months have passed since PWI's trial period closed on March 26,

2015. The Board has found no excusable neglect where the delay of the party in PWI's position has been significantly shorter. *See Pumpkin*, 43 U.S.P.Q.2d at 1587-88 (motion to re-open filed three and a half months after close of testimony; no excusable neglect); *Hewlett-Packard*, 18 U.S.P.Q.2d at 1712 (plaintiff's motion to extend filed eight weeks after close of testimony; defendant's cross-motion for judgment granted). And in contrast to PWI, in both *Pumpkin* and *Hewlett-Packard*, the plaintiffs were denied relief even after taking affirmative steps to attempt to address their delays. Here, PWI has done nothing after a far longer passage of time.

Further, "calculation of the length of the delay in proceedings also must take into account the additional, unavoidable delay arising from the time required for briefing and deciding the motion"—such that the true length of the delay caused by PWI's inaction remains to be seen. *Pumpkin*, 43 U.S.P.Q.2d at 1588. Here, re-opening PWI's trial period and resetting all subsequent dates would have a substantial impact on these proceedings, which began in June 2006. Under the current trial schedule, the deadline for PWI's pretrial disclosures through the close of the final trial period spanned from February 9, 2015 to September 22, 2015—roughly seven and a half months. Re-opening trial periods after briefing and decision on this motion, adding in three and a half months for final briefing and several months more for an oral hearing (if requested and granted) and issuance of a decision, would easily extend these nearly decade-old proceedings by another year and a half or two years. Given the significant impact that re-opening PWI's trial period would have on the Board and on Jarrow, this factor strongly favors granting judgment for Jarrow:

The Board, and parties to Board proceedings generally, clearly have an interest in minimizing the amount of the Board's time and resources that must be expended on matters, such as most contested motions to reopen time, which come before the Board solely as a result of a sloppy practice or inattention to deadlines on the part of litigants or their counsel. The

Board's interest in deterring such sloppy practice weighs heavily against a finding of excusable neglect, under the second *Pioneer* factor.

Id. (finding no excusable neglect). Accordingly, because the facts demonstrate that the second and third *Pioneer* factors weigh heavily against PWI, the Board should enter judgment for Jarrow in the PWI Oppositions.

3. PWI's Delay Is Indicative of a Lack of Good Faith In Conducting This Proceeding

PWI's delay and continued inattention to advancing these proceedings, either by finalizing any of the extensively negotiated settlement agreement(s), putting forth evidence to support its case, or timely acting to extend deadlines, cast serious doubt on any claims that it has acted in good faith. Despite "hav[ing] come to the point of negotiating, literally, the final wording of just 4 sentences" of the then-settlement agreement in April 2013 (D.E. # 73 at 1), the parties are no closer to final resolution. In fact, not only have the parties not reached a final settlement, but PWI has raised new substantive issues after more than five months of silence. (Ex. 14-15).

PWI's change of heart is unfortunately nothing new. Despite the parties having invested substantial time in negotiating settlement, PWI has repeatedly raised new issues and, on two prior occasions, required changes to the overall structure of the agreement due to its changes in position. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] (Ex. 3).

[REDACTED]

[REDACTED]

open that period more than seven months after it expired, should not be rewarded. For the foregoing reasons, PWI has not acted in good faith, and this *Pioneer* factor favors Jarrow as well.

4. Jarrow Would Be Prejudiced by the Re-Opening of PWI's Trial Period

As noted above, the first of these consolidated proceedings commenced in June 2006. To date, Jarrow has invested substantial amounts of time and money in connection with these consolidated proceedings. Since May 2011, Jarrow has worked extensively to negotiate several different settlement agreements with PWI while under the impression, each time around, that these proceedings would be resolved in short order. PWI's most recent delay is more of the same, and threatens to further delay the resolution of Jarrow's entitlement to register the opposed marks, and to require even more time and expense to resolve these proceedings. In light of the prejudice to Jarrow caused by PWI's delay, this *Pioneer* factor also favors entry of judgment for Jarrow in the PWI Oppositions.

IV. CONCLUSION

PWI's failure to take testimony or offer evidence during its trial period was wholly within its control, and its failure to take any action during its trial period or in the seven months since is inexcusable. PWI's continued inattention to this matter signals its lack of good faith and threatens to further prejudice Jarrow by indefinitely delaying these nearly decade-old proceedings. Because PWI cannot demonstrate excusable neglect under the *Pioneer* factors, judgment should be entered for Jarrow in the PWI Oppositions.

Respectfully submitted,

McCARTER & ENGLISH, LLP

Dated: November 20, 2015

By: /s/ Mark D. Giarratana

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 20, 2015, the foregoing document was submitted for filing to the Trademark Trial and Appeal Board through the ESTTA system and a copy of this paper has been served upon Opposer's attorney of record via first class mail, postage pre-paid, at the address shown below:

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/s/ David Ewen

David Ewen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PomWonderful LLC)	
	)	Opposition (Parent) No.: 91171281
Opposer,)	
)	Marks and Consolidated Proceedings:
v.)	Opp. No. 91171281 (Parent) re POMAMAZING
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Jarrow Formulas, Inc.,)	Opp. No. 91171284 re POMESYNERGY
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Applicant,)	Opp. No. 91186414 re POMEZOTIC
)	Opp. No. 91191995 re PRICKLYPOM
)	Opp. No. 91194226 re POM and POM
)	
)	
)	

DECLARATION OF BARBARA BANJAC

I, Barbara Banjac, pursuant to the requirements of 28 U.S.C. § 1746, declare that the following is true and correct.

1. I am a paralegal with the law firm of McCarter & English, LLP, of Hartford, Connecticut, attorneys of record for Jarrow Formulas, Inc. ("Jarrow") in these consolidated opposition proceedings. I make this Declaration in support of Jarrow's Motion for Judgment under 37 C.F.R. 2.132(a). I have personal knowledge of the matters set forth in this Declaration.

2. Attached hereto as **Exhibit 1** is a true and accurate copy of a letter from Opposer PomWonderful LLC's ("PWI's") former counsel, Brian W. Kassell, to Jarrow's counsel, Mark D. Giarratana, dated June 12, 2007.

3. Attached hereto as **Exhibit 2** are true and accurate copies of email correspondence and a draft settlement agreement sent by PWI's counsel, Danielle M. Criona, to Jarrow's counsel, Mark D. Giarratana, dated May 6, 2011.

4. Attached hereto as **Exhibit 3** are true and accurate copies of email correspondence from PWI's counsel, Danielle M. Criona, to Jarrow's counsel, Mark D. Giarratana, dated July 19, 2012 and August 1, 2012.

5. Attached hereto as **Exhibit 4** is a true and accurate copy of email correspondence from Jarrow's counsel, Mark D. Giarratana, to PWI's counsel, Danielle M. Criona, dated November 27, 2012.

6. Attached hereto as **Exhibit 5** is a true and accurate copy of email correspondence from PWI's counsel, Danielle M. Criona, to Jarrow's counsel, Mark D. Giarratana, dated December 17, 2012.

7. Attached hereto as **Exhibit 6** is a true and accurate copy of Jarrow's Pretrial Disclosures, dated and served on September 26, 2013.

8. Attached hereto as **Exhibit 7** is a true and accurate copy of email correspondence from Jarrow's counsel, Mark D. Giarratana, to PWI's counsel, Danielle M. Criona, dated May 7, 2014.

9. Attached hereto as **Exhibit 8** is a true and accurate copy of email correspondence from Jarrow's counsel, David Ewen, to PWI's counsel, Danielle M. Criona, dated January 7, 2015.

10. Attached hereto as **Exhibit 9** is a true and accurate copy of email correspondence from PWI's counsel, Danielle M. Criona, to Jarrow's counsel, Mark D. Giarratana, dated February 25, 2015.

11. Attached hereto as **Exhibit 10** is a true and accurate copy of email correspondence between Jarrow's counsel, Mark D. Giarratana, and PWI's counsel, Danielle M. Criona, dated March 3, 2015 and March 23, 2015.

12. Attached hereto as **Exhibit 11** are true and accurate copies of email correspondence from PWI's counsel, Danielle M. Criona and Michael M. Vasseghi, to Jarrow's counsel, Mark D. Giarratana, dated April 21, 2015 and May 6, 2015.

13. Attached hereto as **Exhibit 12** are true and accurate copies of email correspondence between Jarrow's and PWI's counsel, Mark D. Giarratana and Danielle M. Criona, respectively, dated May 27, 2015 and May 29, 2015.

14. Attached hereto as **Exhibit 13** are true and accurate copies of email correspondence between Jarrow's and PWI's counsel, Mark D. Giarratana and Danielle M. Criona, respectively, dated June 22, 2015.

15. Attached hereto as **Exhibit 14** are true and accurate copies of email correspondence between Jarrow's and PWI's counsel, Mark D. Giarratana and Danielle M. Criona, respectively, dated between October 6 and October 21, 2015.

16. Attached hereto as **Exhibit 15** is a true and accurate copy of email correspondence from PWI's counsel, Danielle M. Criona, to Jarrow's counsel, Mark D. Giarratana, dated November 10, 2015.

17. Attached hereto as **Exhibit 16** are true and accurate copies of pages from Jarrow's website showing Jarrow's promotion of products under its POME GREAT mark, accessed on November 20, 2015 at the URLs www.jarrow.com/product/332/Pomegranate_Juice_Concentrate and www.jarrow.com/product/339/Pomegranate_Juice_Concentrate.

18. Attached hereto as **Exhibit 17** is a true and accurate copy of Roll Law Group's LinkedIn profile page, accessed on November 20, 2015 at the URL www.linkedin.com/company/roll-law-group.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 20, 2015


Barbara Banjac

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 20, 2015, the foregoing document was submitted for filing to the Trademark Trial and Appeal Board through the ESTTA system and a copy of this paper has been served upon Opposer's attorney of record via first class mail, postage pre-paid, at the address shown below:

Danielle M. Criona, Esq.
ROLL LAW GROUP P.C.
11444 West Olympic Blvd.
Los Angeles, California 90064
Danielle.Criona@Roll.com

/David Ewen/

David Ewen

EXHIBIT 1

(FILED UNDER SEAL)

EXHIBIT 2

(FILED UNDER SEAL)

EXHIBIT 3

Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Thursday, July 19, 2012 11:56 AM
To: Giarratana, Mark
Cc: Ewen, David
Subject: RE: POM/Jarrow Case: CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

[REDACTED]

[REDACTED]

Danielle M. Criona, Esq.

Roll Law Group PC

Intellectual Property Counsel

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Wednesday, July 18, 2012 4:40 PM
To: Criona, Danielle
Cc: Ewen, David
Subject: RE: POM/Jarrow Case

Danielle,

I'm traveling on depositions through Friday morning so it's a little tight until then. Can this wait until Friday? If not, I'll call you during a break or something.

Did you get the redline draft of the settlement agreement that I sent to you before INTA?

Best,

Mark

Mark D. Giarratana
Partner
McCarter & English, LLP
CityPlace I
185 Asylum Street
Hartford, Connecticut 06103-3495
Ph.: (860) 275-6719
Fax: (860) 560-5919
Email: mgiarratana@mccarter.com

From: Criona, Danielle [<mailto:DCriona@Roll.com>]
Sent: Wednesday, July 18, 2012 3:14 PM
To: Giarratana, Mark
Subject: POM/Jarrow Case

Mark,



Danielle M. Criona, Esq. | Roll Law Group PC | Intellectual Property Counsel

11444 W Olympic Blvd. | Los Angeles, CA 90064 | 310.966.8771 | Fax 310.966.8810

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Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Wednesday, August 01, 2012 11:42 AM
To: Giarratana, Mark
Cc: Ewen, David
Subject: RE: POM/Jarrow Case

Importance: High

Mark,

[REDACTED]

Danielle M. Criona, Esq.

Roll Law Group PC

Intellectual Property Counsel

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Wednesday, July 18, 2012 4:40 PM
To: Criona, Danielle
Cc: Ewen, David
Subject: RE: POM/Jarrow Case

Danielle,

I'm traveling on depositions through Friday morning so it's a little tight until then. Can this wait until Friday? If not, I'll call you during a break or something.

Did you get the redline draft of the settlement agreement that I sent to you before INTA?

Best,

Mark

Mark D. Giarratana
Partner
McCarter & English, LLP
CityPlace I
185 Asylum Street
Hartford, Connecticut 06103-3495
Ph.: (860) 275-6719
Fax: (860) 560-5919
Email: mgiarratana@mccarter.com

From: Criona, Danielle [<mailto:DCriona@Roll.com>]
Sent: Wednesday, July 18, 2012 3:14 PM
To: Giarratana, Mark
Subject: POM/Jarrow Case

Mark,



Danielle M. Criona, Esq. | Roll Law Group PC | Intellectual Property Counsel

11444 W Olympic Blvd. | Los Angeles, CA 90064 | 310.966.8771 | Fax 310.966.8810

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EXHIBIT 4

Banjac, Barbara

From: Giarratana, Mark
Sent: Tuesday, November 27, 2012 7:57 PM
To: 'Criona, Danielle'
Cc: Ewen, David
Subject: CONFIDENTIAL AND PRIVILEGED SETTLEMENT COMMUNICATION - FRE 408 - POMWONDERFUL V. JFI
Attachments: Draft JFI-PWI Settlement Agreement (11.21.12)-c.DOC

Dear Danielle:

As discussed, attached please find the draft settlement agreement. We used as a starting point the draft agreement that we had previously negotiated and, I think, had come close to finalizing. [REDACTED]

I will look forward to discussing your feedback and wrapping this up. In meantime, please let me know if you are agreeable to another one-week extension of our respective discovery response deadlines tomorrow. Since we don't have the intervening Thanksgiving holiday this week, I'm optimistic we can get this done in that time frame.

Note that in the rush to get this to you, I have not had time to get client review and approval before sending this to you. Accordingly, the enclosed draft is subject to the possibility of additional client input.

Best,

Mark

Mark D. Giarratana // Partner
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street // Hartford, Connecticut 06103-3495
Direct: 860-275-6719
Mobile: 860-944-9875
Fax: 860-560-5919

mgarratana@mccarter.com // www.mccarter.com <<http://www.mccarter.com>/>

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EXHIBIT 5

Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Monday, December 17, 2012 1:31 PM
To: Giarratana, Mark
Cc: Ewen, David
Subject: RE: PWI v. JFI - Confidential and Privileged Settlement Communication - FRE 408

Mark,

[REDACTED]

Thanks.

Danielle M. Criona, Esq.

Roll Law Group PC

Intellectual Property Counsel

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Thursday, December 13, 2012 1:16 PM
To: Criona, Danielle
Cc: Ewen, David
Subject: PWI v. JFI - Confidential and Privileged Settlement Communication - FRE 408

Dear Danielle:

Attached please find a revised draft and redline showing the changes over the draft last received from you.

[REDACTED]

[REDACTED]

[REDACTED]

I think the other changes are self explanatory, but I'll be happy to discuss them with you.

I will look forward to your reply and wrapping this up.

Thanks.

Mark

Ps: I'll also fill you in on the phone call with Bruno when we talk.

Mark D. Giarratana // Partner
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street // Hartford, Connecticut 06103-3495
Direct: 860-275-6719
Mobile: 860-944-9875
Fax: 860-560-5919

mgarratana@mccarter.com // www.mccarter.com <<http://www.mccarter.com/>>

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EXHIBIT 6

September 26, 2013

VIA E-MAIL AND US MAIL

David Ewen
Associate
T. 860.275.6733
F. 860.560.5996
dewen@mccarter.com

Danielle Criona, Esq.
Roll Law Group P.C.
11444 W. Olympic Blvd.
Los Angeles, California 90064

**Re: PomWonderful LLC v. Jarrow Formulas, Inc.
Consolidated Opposition No. 91171281**

Dear Danielle:

Enclosed is your service copy of *JARROW FORMULAS, INC.'S PRETRIAL DISCLOSURES*.

Very truly yours,



David Ewen

Enclosure

cc: Mark D. Giarratana

McCarter & English, LLP
CityPlace I
185 Asylum Street
Hartford, CT 06103-3495
T. 860.275.6700
F. 860.724.3397
www.mccarter.com

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Jarrow Formulas, Inc.,)	
)	
	)	Opposition No.: 91171281 (parent)
	)	Opposition No.: 91194226 (child)
)	
v.)	
	)	Application No. 78/626,152
PomWonderful, LLC,	)	Mark: POM
)	
	)	Application No. 78/626,155
	)	Mark: POM (stylized)
)	

JARROW FORMULAS INC.'S
PRETRIAL DISCLOSURES

Jarrow Formulas Inc. ("JFI"), the opposer of the above-captioned applications in U.S. Trademark Opposition No. 91194226, hereby makes the following Pretrial Disclosures pursuant to TBMP § 702.01 and Rule 26(a)(3) of the Federal Rules of Civil Procedure. JFI hereby reserves the right to supplement these disclosures in accordance with, and as required by, the applicable rules.

JFI hereby discloses the following individuals as witnesses that it expects to present and/or call if the need arises during its testimony period:

1. Mr. Jarrow L. Rogovin
President & Chairman
Jarrow Formulas, Inc.
1824 South Robertson Blvd.
Los Angeles, CA 90035-4317
(310) 204-6936

Mr. Rogovin is expected to testify (1) as to the field and marketplace for food and health products containing pomegranate, including, but not limited to, dietary and nutritional

supplements; (2) that the term "POM" in the relevant field and/or marketplace is used as an abbreviation or truncation of the word "pomegranate; (3) that "POM" in the relevant field and/or marketplace designates products that contain pomegranate; (4) that JFI and third parties in the relevant field and/or marketplace use and have used the term "POM" to indicate that their products contain pomegranate; (5) that the term "POM" is merely descriptive of goods containing pomegranate or of the pomegranate in such goods; and/or (6) that the heart used in the POM mark merely describes that the goods support cardiovascular function and/or heart health.

The types of documents and things which may be introduced as exhibits include without limitation documents and things evidencing (1) that the term "POM" is understood in the relevant field and/or marketplace as an abbreviation or truncation of the word "pomegranate; (2) that "POM" is understood in the relevant field and/or marketplace as designating that such products contain pomegranate; (3) that JFI and third parties in the relevant field and/or marketplace use and have used the term "POM" to indicate to consumers that products contain pomegranate; (4) that the relevant consumers for such products understand that the term "POM" indicates that such goods contain pomegranate; (5) that the term "POM" is merely descriptive of goods containing pomegranate; and/or (6) that the heart used in the POM mark is understood in the relevant field and/or marketplace, and by relevant consumers in such field and/or marketplace, to indicate, and merely describe, that the goods support cardiovascular function and/or heart health.

2. Mr. Clay DuBose
Vice President Sales
Jarrow Formulas, Inc.
1824 South Robertson Blvd.
Los Angeles, CA 90035-4317
(310) 204-6936

Mr. DuBose is expected to testify (1) as to the field and marketplace for food and health products containing pomegranate, including, but not limited to, dietary and nutritional supplements; (2) that the term “POM” in the relevant field and/or marketplace is used as an abbreviation or truncation of the word “pomegranate; (3) that “POM” in the relevant field and/or marketplace designates products that contain pomegranate; (4) that JFI and third parties in the relevant field and/or marketplace use and have used the term “POM” to indicate that their products contain pomegranate; (5) that the term “POM” is merely descriptive of goods containing pomegranate or of the pomegranate in such goods; and/or (6) that the heart used in the POM mark merely describes that the goods support cardiovascular function and/or heart health.

The types of documents and things which may be introduced as exhibits include without limitation documents and things evidencing (1) that the term “POM” is understood in the relevant field and/or marketplace as an abbreviation or truncation of the word “pomegranate; (2) that “POM” is understood in the relevant field and/or marketplace as designating that such products contain pomegranate; (3) that JFI and third parties in the relevant field and/or marketplace use and have used the term “POM” to indicate to consumers that products contain pomegranate; (4) that the relevant consumers for such products understand that the term “POM” indicates that such goods contain pomegranate; (5) that the term “POM” is merely descriptive of goods containing pomegranate; and/or (6) that the heart used in the POM mark is understood in the relevant field and/or marketplace, and by relevant consumers in such field and/or marketplace, to indicate, and merely describe, that the goods support cardiovascular function and/or heart health.

3. Ms. Peilin Guo
Executive Vice President
Jarrow Formulas, Inc.
1824 South Robertson Blvd.
Los Angeles, CA 90035-4317
(310) 204-6936

Ms. Guo is expected to testify (1) as to the field and marketplace for food and health products containing pomegranate, including, but not limited to, dietary and nutritional supplements; (2) that the term "POM" in the relevant field and/or marketplace is used as an abbreviation or truncation of the word "pomegranate; (3) that "POM" in the relevant field and/or marketplace designates products that contain pomegranate; (4) that JFI and third parties in the relevant field and/or marketplace use and have used the term "POM" to indicate that their products contain pomegranate; (5) that the term "POM" is merely descriptive of goods containing pomegranate or of the pomegranate in such goods; and/or (6) that the heart used in the POM mark merely describes that the goods support cardiovascular function and/or heart health.

The types of documents and things which may be introduced as exhibits include without limitation documents and things evidencing (1) that the term "POM" is understood in the relevant field and/or marketplace as an abbreviation or truncation of the word "pomegranate; (2) that "POM" is understood in the relevant field and/or marketplace as designating that such products contain pomegranate; (3) that JFI and third parties in the relevant field and/or marketplace use and have used the term "POM" to indicate to consumers that products contain pomegranate; (4) that the relevant consumers for such products understand that the term "POM" indicates that such goods contain pomegranate; (5) that the term "POM" is merely descriptive of goods containing pomegranate; and/or (6) that the heart used in the POM mark is understood in the relevant field and/or marketplace, and by relevant consumers in such field and/or

marketplace, to indicate, and merely describe, that the goods support cardiovascular function and/or heart health.

Dated: September 26, 2013

MCCARTER & ENGLISH, LLP

/s/ Mark D. Giarratana

Mark D. Giarratana, Esq.

CityPlace I

185 Asylum Street

Hartford, CT 06103

(860) 275-6719 Telephone

(860) 724-3397 Facsimile

mgarratana@mccarter.com

Attorneys for Jarrow Formulas, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2013, a true and correct copy of the foregoing **JARROW FORMULAS, INC.'S PRETRIAL DISCLOSURES** was served via email and first class mail upon counsel for PomWonderful, LLC at the following address:

Danielle M. Criona, Esq.
ROLL LAW GROUP P.C.
11444 West Olympic Blvd.
Los Angeles, California 90064
dcriona@roll.com

/s/ David Ewen

David Ewen

EXHIBIT 7

Banjac, Barbara

From: Giarratana, Mark
Sent: Wednesday, May 07, 2014 5:35 PM
To: 'Criona, Danielle'
Cc: Ewen, David
Subject: Jarrow Formulas, Inc. - PomWonderful, Inc. - CONFIDENTIAL SETTLEMENT
COMMUNICATION UNDER FRE 408
Attachments: Change-Pro Redline - Jarrow - PWI Settlement Draft (04.09.2014) (walkaway version)
and Jarrow - PWI-c.DOC; Jarrow - PWI Settlement Draft (04.09.2014) (walkaway version)-
c.DOC

Dear Danielle:

In follow-up to our discussion today, attached please find the revised draft settlement agreement along with a redline showing the changes over the draft previously under consideration. [REDACTED]

Mark



Mark D. Giarratana // Partner
McCarter & English, LLP

CityPlace I, 185 Asylum Street // Hartford, Connecticut 06103
T: 860-275-6719
C: 860-944-9875
F: 860-560-5919
mgiarratana@mccarter.com // www.mccarter.com

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PHILADELPHIA // STAMFORD // WASHINGTON, DC // WILMINGTON

EXHIBIT 8

Banjac, Barbara

From: Ewen, David <DEwen@McCarter.com>
Sent: Wednesday, January 07, 2015 5:59 PM
To: DCriona@Roll.com
Cc: Giarratana, Mark
Subject: PomWonderful / JFI Oppositions

Danielle:

Hope you had a nice holiday season. I am checking in to see if you have spoken with your client in follow up to our discussion before the holidays. We are going to start running up against deadlines next month, so please let us know where things stand.

Thanks,
David



David Ewen | Associate
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6733
F: 860-560-5996
dewen@mccarter.com | www.mccarter.com

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EXHIBIT 9

Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Wednesday, February 25, 2015 10:21 PM
To: Giarratana, Mark; Ewen, David
Cc: Vasseghi, Michael
Subject: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT
COMMUNICATION SUBJECT TO FRE 408
Attachments: 2393688_1.DOC.doc

Mark and David,

[REDACTED]

Danielle M. Criona, Esq. | Roll Law Group PC | Senior Counsel – Intellectual Property
11444 W Olympic Blvd. | Los Angeles, CA 90064 | 310.966.8771 | Fax 310.966.8810

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EXHIBIT 10

Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Monday, March 23, 2015 5:59 PM
To: Giarratana, Mark
Cc: Ewen, David; Vasseghi, Michael
Subject: RE: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408
Attachments: Settlement Agreement - POM Wonderful and Jarrow Formuals - Final Draft, March 23, 2015.DOC

Mark,

[REDACTED]

Danielle M. Criona, Esq.
Senior Counsel - Intellectual Property
Roll Law Group PC Ph. 310.966.8771

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Tuesday, March 03, 2015 4:08 PM
To: Criona, Danielle
Cc: Ewen, David; Vasseghi, Michael
Subject: FW: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

Dear Danielle:

Thank you for sending over the revised agreement. Although I have not yet discussed your revisions with our client, I will be meeting with him this week and plan to do so then.

[REDACTED]

As indicated, I am meeting with our client in California for the remainder of the week and will be available by cell phone (860-944-9875) to discuss. Please let me know if you are available on Thursday or Friday. I will look forward to speaking with you.

Best,
Mark



Mark D. Giarratana | Partner
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6719
C: 860-944-9875
F: 860-560-5919
mgiarratana@mccarter.com | www.mccarter.com

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EXHIBIT 11

Banjac, Barbara

From: Vasseghi, Michael <MVasseghi@Roll.com>
Sent: Wednesday, May 06, 2015 1:29 PM
To: Giarratana, Mark
Cc: Ewen, David; Criona, Danielle
Subject: RE: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408 [RLG 107827]

Mark, David:

[REDACTED]

Thanks,
Michael.

From: Criona, Danielle
Sent: Tuesday, April 21, 2015 9:01 AM
To: Giarratana, Mark
Cc: Ewen, David; Vasseghi, Michael
Subject: RE: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408 [RLG 107827]

Mark,

[REDACTED]

Danielle M. Criona, Esq.
Senior Counsel - Intellectual Property
Roll Law Group PC Ph. 310.966.8771

EXHIBIT 12

Banjac, Barbara

From: Criona, Danielle <DCriona@Roll.com>
Sent: Friday, May 29, 2015 6:58 PM
To: Giarratana, Mark
Cc: Ewen, David; Vasseghi, Michael
Subject: RE: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

[REDACTED]

Danielle M. Criona, Esq.
Senior Counsel - Intellectual Property
Roll Law Group PC Ph. 310.966.8771

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Wednesday, May 27, 2015 12:22 PM
To: Criona, Danielle
Cc: Ewen, David; Vasseghi, Michael
Subject: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

Dear Danielle:

Attached is a slightly revised draft and redline of the settlement agreement. As you can see, the few changes are of a ministerial nature. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Our client is prepared to sign the attached draft. Please let me know if your client is ready to do the same and we can exchange signatures.

Best,
Mark



Mark D. Giarratana | Partner
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6719
C: 860-944-9875
F: 860-560-5919
mgiarratana@mccarter.com | www.mccarter.com

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EXHIBIT 13

Banjac, Barbara

From: Giarratana, Mark
Sent: Monday, June 22, 2015 5:53 PM
To: 'Criona, Danielle'
Cc: Ewen, David; Vasseghi, Michael
Subject: RE: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

OK. We'll look forward to getting the go ahead from you so that we can have our client sign the US agreement.

From: Criona, Danielle [<mailto:Danielle.Criona@Roll.com>]
Sent: Monday, June 22, 2015 5:49 PM
To: Giarratana, Mark
Cc: Criona, Danielle; Ewen, David; Vasseghi, Michael
Subject: Re: Jarrow and POM Final Settlement Agreement // CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

[REDACTED]

[REDACTED]

[REDACTED]

Danielle M. Criona, Esq.
ROLL LAW GROUP, PC

On Jun 22, 2015, at 2:19 PM, Giarratana, Mark <MGiarratana@McCarter.com> wrote:

Dear Danielle,

Just checking in to see if your client is good with the draft. If so, we will get it signed. We've got a July 19 deadline coming up in Canada so would like to get this resolved in advance of that deadline (and others in the US).

Best,
Mark



Mark D. Giarratana | Partner
McCarter & English, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6719
C: 860-944-9875
F: 860-560-5919
mgiarratana@mccarter.com | www.mccarter.com

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EAST BRUNSWICK | PHILADELPHIA | WILMINGTON | WASHINGTON, DC

EXHIBIT 14

Banjac, Barbara

From: Criona, Danielle <Danielle.Criona@Roll.com>
Sent: Wednesday, October 21, 2015 4:59 PM
To: Giarratana, Mark
Cc: Vasseghi, Michael
Subject: RE: Jarrow Formulas - PomWonderful Settlement?

Danielle M. Criona, Esq.
Senior Counsel - Intellectual Property

From: Giarratana, Mark [<mailto:MGiarratana@McCarter.com>]
Sent: Friday, October 16, 2015 3:57 PM
To: Criona, Danielle
Subject: RE: Jarrow Formulas - PomWonderful Settlement?

Dear Danielle:

Please let me know if the draft settlement agreement is acceptable.

Best,
Mark



Mark D. Giarratana | Partner
McCARTER & ENGLISH, LLP

CityPlace I, 185 Asylum Street | Hartford, Connecticut 06103
T: 860-275-6719
C: 860-944-9875
F: 860-560-5919
mgiarratana@mccarter.com | www.mccarter.com

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From: Giarratana, Mark
Sent: Tuesday, October 06, 2015 7:01 PM
To: Criona, Danielle (Danielle.Criona@Roll.com)
Subject: Jarrow Formulas - PomWonderful Settlement?

Dear Danielle:

Further to your discussion with David last week, I am writing to follow up on the status of settlement of the U.S. and Canadian proceedings. In Canada, Jarrow Formulas is running up against a deadline of October 19, 2015 to file evidence and arguments in the Canadian appeal, which will cause it to needlessly incur additional expense while awaiting resolution of that and the U.S. matters.

Since the spring, Jarrow Formulas has believed this matter to be wrapped up. However, based on your discussion with David last week, it appears that PomWonderful might now raise new issues with previously agreed-upon language. Moreover, despite your indications in June that [REDACTED]

The U.S. proceeding is nearly ten years old, and in Canada, Jarrow Formulas is now faced with having to incur the expense of filing its evidence and arguments in less than two weeks. The Canadian and U.S. matters need to be finally resolved as soon as possible, and prior to the October 19th deadline. Jarrow Formulas cannot stand by while PomWonderful continues to delay a resolution with a seeming inability to commit to a position and its piecemeal re-wording of agreed-upon provisions.

Please let me know if the draft that I sent to you in the spring is acceptable. If not, I hope any further changes are ministerial in nature and mutually productive. We look forward to seeing if we can get the settlement agreement finalized and to moving forward.

Best,
Mark



Mark D. Giarratana | Partner
McCARTER & ENGLISH, LLP

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EXHIBIT 15

Banjac, Barbara

From: Criona, Danielle <Danielle.Criona@Roll.com>
Sent: Tuesday, November 10, 2015 3:18 PM
To: Giarratana, Mark; Ewen, David
Cc: Vasseghi, Michael
Subject: Settlement Agreement - Jarrow and TWC/POM Wonderful (Executed) // Subject to FRE 408
Attachments: Settlement Agreement - POM Wonderful and Jarrow Formulas - FINAL Executed by TWC & PW.PDF; Settlement Agreement - POM Wonderful and Jarrow Formulas - Clean (11.6.2015 withTWC - Final).DOC

CONFIDENTIAL SETTLEMENT COMMUNICATION - SUBJECT TO FRE 408

Mark and David,

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

Danielle M. Criona, Esq. | Roll Law Group PC | Senior Counsel – Intellectual Property
11444 W Olympic Blvd. | Los Angeles, CA 90064 | 310.966.8771 | Fax 310.966.8810

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EXHIBIT 16

Beauty
SupportBone and
Joint HealthBrain and
Memory
SupportCardiovascular
HealthChildren's
HealthEnergy
SupportGastrointestinal
HealthImmune &
Respiratory HealthJoint
NutritionLiver
HealthMens
HealthSports
Nutrition

Vision

Women's
Health

PomeGreat™ Pomegranate

Pomegranate (*Punica granatum*) Juice Concentrate

Supports Healthy Cardiovascular
Function*
& Healthy Aging*

PRODUCT HIGHLIGHTS

- PomeSynergy™: Combined benefit of phytochemicals and phytonutrients
- 4 X Pomegranate Juice Concentrate
- Polyphenol Source
 - Including punicalagin
 - Natural polyphenol levels only!
- Cardiovascular & Prostate Health*
- Pomezotic™ taste



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WHAT DOES POMEGRATE POMEGRANATE DO?

Jarrow Formulas® PomeGreat™ Pomegranate Juice Concentrate is made with California Wonderful Variety pomegranate fruit. It is 4 times more concentrated than regular pomegranate juice. Pomegranate is one of the most powerful antioxidant fruits.

Pomegranate has been shown in scientific studies to benefit cardiovascular function, healthy cell replication, and antioxidation protection.* These health benefits are contributed by phytochemical compounds such as ellagic acid, gallic acid, anthocyanins, and tannins, including punicalagin, and other powerful phytonutrients.*

Clinical and experimental studies show that pomegranate juice:

- Decreases Low Density Lipoprotein (LDL) oxidation.*
- Enhances cellular (macrophage) glutathione.*
- Helps maintain regular platelet activity.*
- Reduces activity of angiotensin converting enzyme (ACE) and supports normal vascular contraction.*
- Promotes normal cell function and replication.*

Warning: Pomegranate juice, like grapefruit juice, may interact with a number of medications. People on any medication, especially on anti-hypertensive or cholesterol lowering medications, or people who are allergic to many plants, should consult their physician before taking pomegranate juice or pomegranate products.

Refrigerate after opening. To extend shelf life, this product would be best kept refrigerated at all times. Use within 60 days after opening. Shake well before using.

Keep out of the reach of children.

ASSOCIATED CATEGORIES

Beauty Support
Cardiovascular Health

Reformulation Date:

Design Change Date: 08/28/2013

Last Update: 06/16/2015

Supplement Facts

Serving Size 1 Tbsp (15 ml)	Servings Per Container 47
Amount Per Serving	% DV*
Calories	50
Total Carbohydrate	12 g 4%
Sugars	10 g †
Potassium	125 mg 4%
Pomegranate Juice Concentrate (<i>Punica granatum</i> , 65 Brix)	15 ml †
Total Polyphenols	165 mg †

* Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value not established.

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*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

Serving: N/A

Product Number: 120028

Size: 24 fl. oz (720 ml)

Product Code: POM24

SCIENCE NEWS



**Hydroxycitric Acid (HCA)
Protects Mitochondria &
Reduces Inflammation...**



**The connection between the
gut microbiota and liver health...**



**Coenzyme Q10 Protects A
Breaking Heart...**



**Smart Supplementing For
Bone Health...**



**The Great Magnesium Stearate
Debate: Clearing up the
Misconceptions...**



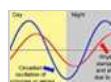
**Boosting beneficial bacteria
shown to support
cardiometabolic health i...**



**Broccoli's Sulforaphane Boosts
Behavior and Communication...**



**New Study Says Probiotics
May Help People With High
Blood Pressure...**



**Lipidic acid helps restore,
synchronize the 'biological
clock'...**

MORE INFORMATION**Suggested Usage**

Take 1 tablespoon per day. May be mixed in cold water, juice, tea, or other beverage of choice.

Other Ingredients

100% Pomegranate juice concentrate.

No wheat, no gluten, no soybeans, no dairy, no egg, no fish/shellfish, no peanuts/tree nuts.

Suitable for vegetarians/vegans.

Non-GMO

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Bone and
Joint Health

Brain and
Memory
Support

Cardiovascular
Health

Childrens
Health

Energy
Support

Gastrointestinal
Health

Immune &
Respiratory Health

Joint
Nutrition

Liver
Health

Mens
Health

Sports
Nutrition

Vision

Women's
Health

PomeGreat™ Pomegranate

Pomegranate (*Punica granatum*) Juice Concentrate

Supports Healthy Cardiovascular
Function*
& Healthy Aging*

PRODUCT HIGHLIGHTS

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- 4 X Pomegranate Juice Concentrate
- Polyphenol Source
 - Including punicalagin
 - Natural polyphenol levels only!
- Cardiovascular & Prostate Health*
- Pomezotic™ taste



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Warning: Pomegranate juice, like grapefruit juice, may interact with a number of medications. People on any medication, especially on anti-hypertensive or cholesterol lowering medications, or people who are allergic to many plants, should consult their physician before taking pomegranate juice or pomegranate products.

Refrigerate after opening. To extend shelf life, this product would be best kept refrigerated at all times. Use within 60 days after opening. Shake well before using.

Keep out of the reach of children.

ASSOCIATED CATEGORIES

Beauty Support
Cardiovascular Health

Reformulation Date:

Design Change Date: 07/18/2013

Last Update: 03/17/2015

Supplement Facts

Serving Size 1 Tbsp (15 ml)
Servings Per Container 24

	Amount Per Serving	% DV*
Calories	50	
Total Carbohydrate	12 g	4%
Sugars	10 g	†
Potassium	125 mg	4%
Pomegranate Juice Concentrate	15 ml	†
(Punica granatum, 65 Brix)		
Total Polyphenols	165 mg	†

* Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value not established.

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*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

Serving: N/A

Size: 12 fl. oz (360 ml)

Product Number: 120023

Product Code: POM

SCIENCE NEWS



**Hydroxycitric Acid (HCA)
Protects Mitochondria &
Reduces Inflammation...**



**The connection between the
gut microbiota and liver health...**



**Coenzyme Q10 Protects A
Breaking Heart...**



**Smart Supplementing For
Bone Health...**



**The Great Magnesium Stearate
Debate: Clearing up the
Misconceptions...**



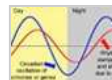
**Boosting beneficial bacteria
shown to support
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**Broccoli's Sulforaphane Boosts
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Take 1 tablespoon per day. May be mixed in cold water, juice, tea, or other beverage of choice.

Other Ingredients

100% Pomegranate juice concentrate.

No wheat, no gluten, no soybeans, no dairy, no egg, no fish/shellfish, no peanuts/tree nuts.

Suitable for vegetarians/vegans.

Non-GMO

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EXHIBIT 17

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